

REMARKS

Overview

Claims 15 and 17-29 are pending in this application. It is submitted that all pending claims are allowable over the cited prior art.

Claim Rejections Under 35 U.S.C. § 103

For the first time, the Examiner cites to O'Brien ("Grain Marketing Plans for Farmers") which discusses grain marketing plan considerations. Yet, like the attempts described in the Background of the invention section of the present application, O'Brien's disclosure merely highlights the issues associated with marketing plans without providing a systematic solution of the present invention for formulating a strategic marketing plan. Gerald Murphy does not claim to have invented the marketing plan, but rather a systematic and reliable method of forming a marketing plan.

When taken as a whole, O'Brien actually teaches away from the claimed invention.

Consider, for example, the following:

- On page 23, O'Brien sets as a price goal criteria to "breakeven." O'Brien does not teach an income approach. O'Brien's approach is not an income approach to a marketing plan, it is a price approach.
- As a whole, O'Brien's approach is based on a producer's self-assessment, including of expected price trends. The result is a marketing plan that can not be relied upon by those providing financing. This is in significant contrast to the present invention, as is clear from the declaration of Gerald Murphy (signed August 15, 2005 and submitted September 2, 2005) and its appendices which include letters from two separate banks.

- O'Brien's approach does not underwrite pre-selling by a level of crop insurance. The value of this approach is specifically included in the letter submitted as exhibit A1 to the declaration of Gerald Murphy (signed August 15, 2005 and submitted September 2, 2005). In the paragraph spanning p. 13-14, O'Brien indicates that "The insured crop production levels of MPCl and crop revenue levels of CRC can be used as guidelines to determine the maximum amount of production that a producer may commit to preharvest pricing strategies" but this observation is another example of an ad-hoc method, a guideline, as opposed to a systematic method of forming a strategic marketing plan.
- O'Brien's system does not provide for any type of numeric scoring system or weighting.

Claims 15 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hay et al. (US 2002/0059091 A1) in view of Remley et al. (US 2002/0023052 A1), and further in view of O'Brien ("Grain Marketing Plans for Farmers").

With respect to claim 15, claim 15 requires "calculating a level of crop revenue insurance to assure a predetermined level of income from sale of pre-determined quantities of crops for use in meeting the financial obligations, such that the financing is underwritten by pre-selling and the pre-selling is underwritten by the level of crop revenue insurance." As the Examiner recognizes, neither Hay et al. nor Remley et al. disclose this limitation (Office Action, p. 4). O'Brien does not disclose this limitation. In the paragraph spanning p. 13-14, O'Brien indicates that "The insured crop production levels of MPCl and crop revenue levels of CRC can be used as guidelines to determine the maximum amount of production that a producer may commit to preharvest pricing strategies." Thus, it is clear that O'Brien does not first calculate a level of income, then necessary pre-sell qualities, and then a level of crop insurance. O'Brien suggests determining a level of crop insurance and using that as a guideline for determining pre-sell

qualities. Thus, O'Brien is clearly deficient and in actuality teaches away from the claimed invention.

With respect to claim 29, claim 29 requires "calculating a level of crop revenue insurance for each of the agricultural enterprises to protect revenue generated from pre-selling, thereby underwriting the pre-selling with the crop revenue insurance and underwriting the assured income with the re-selling." O'Brien is deficient with respect to claim 29 for the same reasons it is deficient with respect to claim 15.

Claims 17 and 23 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Hay et al. (US 2002/0059091 A1) in view of O'Brien ("Grain Marketing Plans for Farmers"). Claim 17 and claim 23 are patentably distinguishable for the reasons previously expressed with respect to claim 15. In particular, neither prior reference discloses "calculating a level of crop revenue insurance to assure at least a predetermined level of income from sale of predetermined pre-sell quantities of crops, thereby underwriting the predetermined level of income by pre-selling and underwriting the pre-selling by the level of crop revenue insurance."

Claims 18 and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hay et al. (US 2002/0059091 A1) in view of Remley et al. (US 2002/0023052 A1), and further in view of O'Brien ("Grain Marketing Plans for Farmers"). As the Examiner recognizes, neither Hay et al. nor Remley et al. discloses "underwriting the strategic marketing action plan with crop insurance to assure the minimum level of crop to be sold." Again, such a limitation is not present in O'Brien as O'Brien does not determine the minimum level of crop to be sold before determining the amount of crop insurance. Therefore, it is respectfully submitted that this rejection to claims 18 and 19 should be withdrawn.

Claims 20, 21, and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hay et al. (US 2002/0059091 A1) in view of O'Brien ("Grain Marketing Plans for Farmers"), and further in view of Friedman ("Dictionary of Business Terms."). The Examiner indicates that claims 20-22 are rejected for the same reasons given in the previous Office Action. It is observed that this is the first time claims 20-22 have been rejected based on this combination of references. In any event, as claims 20-22 depend from claim 17, these rejections should be withdrawn for the reasons expressed with respect to claim 17,


Claims 24-28 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Hay et al. (US 2002/0059091 A1) in view of O'Brien ("Grain Marketing Plans for Farmers"), and further in view of Schneider (US 6,990,459). These claims all depend from claim 17. These rejections should be withdrawn for the same reasons expressed with respect to claim 17.

Conclusion

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084. The Examiner is invited to contact the undersigned attorney in an effort to reach agreement as to patentability if the Examiner does not agree that all pending claims are in form for allowance.

Reconsideration and passage to issuance is respectfully requested.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "John D. Goodhue", written over a horizontal line.

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